

SPEAKING POINTS FOR SB 108

P
1-3 Section 1 and 2 of the bill requires an insurer using a third party agent to adjust claims to notify the Department 14 days in advance of a change in agent and establishes a penalty for failure to do so. The Department fields lots of calls from claimants, insurers and attorneys regarding the appropriate party to contact regarding a claim. This amendment is to ensure that the Department has accurate information to perform this role.

6-9 Section 3, 4 and 5 of the bill are to clarify the appeal process for independent contractor disputes. Appeals go through a mediation process prior to going to the workers' compensation court.

P. 11 Section 6 strikes the criteria for establishing hospital rates and requires the Department to annually establish a schedule of fees for all medical services. The fee schedules will be adopted through the administrative rule process. The Department would like the ability to set the schedule by rule so that it can work with an advisory committee of medical providers, insurers, employers and employees to develop a schedule that uses a nationally recognized methodology that is comparable with other state payers. The current system of discount factors is antiquated and results in payment inequities between hospitals. Rules

P. 13 Section 7 of the bill strikes the reimbursement rate established for prescription drugs and requires the department to establish annually a schedule of fees. The Department will again work with the advisory committee to come up with a fee schedule. It is widely recognized in the workers' compensation industry that too much is being paid for prescriptions. The current rate is 100% of the average wholesale price plus a dispensing fee not to exceed \$5.50. No large group provider pays anywhere near the wholesale price.

P. 13 Section 8 clarifies that the rate that is to be paid to family members for providing domiciliary care to an injured family member will be linked to the Montana Information Wage Rates by Occupation. Currently, the statute requires the prevailing wage and that rate can be hard to determine.

P. 14 Section 9 of the bill requires security deposit proceeds to be paid to the Department within 30 days of the demand to pay and establishes a penalty for failure to do so. The Department uses these proceeds to pay injured workers indemnity and medical benefits in the case of a self-insured employer's insolvency. If the money is not received quickly, then injured workers can face significant financial hardship.

7.16
Section 10 is to clarify that a captive reciprocal insurer is treated as a plan No. 2 insurer for workers' compensation purposes. This makes clear that a captive reciprocal insurer is obligated to pay the same compensation and benefits, use the same dispute resolution process and follow the same reporting requirements for injuries, coverage and other purposes as all other plan 2 insurers.

6-18
Section 11, 12 and 13 are to allow the department to fine insurers up to \$200 per policy for failure to report coverage and cancellation of coverage within the statutory time limits. Currently, the statute only allows the fine if the required reporting is late as a general business practice. This means that insurers can be late 50% of the time before a penalty may be issued to generate compliance.

P18
Section 14 of the bill is a new section that requires an impaired insurer (as defined in the section) to furnish the Department with a claim summary and actuarial information so that that Department can determine the total liability that is outstanding. This information will be used to set the amount of the deposit that will be required from self-insured employers and plan No. 2 insurers as part of section 15 of the bill.

18-19
Section 15 establishes a security deposit requirement for all plan No. 2 insurers in an amount from \$25,000 to \$250,000. The purpose of the deposit is to have a ready source of funds to continue claim payments in the event the insurer fails to do so. The Insurance Guaranty Association will take over the payment of claims, but there is often a delay of 90 to 120 days which can be a significant financial burden on injured workers. Once the Guaranty Association begins making payments the bond proceeds will be transferred to the Association.